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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/541,729

07/11/2005

Yukio Kitaie

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07/29/2009

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EXAMINER

NAKARANI, DHIRAJLAL S

ART UNIT

PAPER NUMBER

1794

NOTIFICATION DATE

DELIVERY MODE

07/29/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/541,729 | Applicant(s) KITAIKE ET AL. | |
| | Examiner D. S. Nakarani | Art Unit 1794 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11, 13 and 16-33 is/are pending in the application.
- 4a) Of the above claim(s) 2, 4, 8, 9, 11, 13, 16-19 and 23-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5-7 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/22/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 2, 4, 8, 9, 11, 13, 16-19 and 23-33 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 09, 2008.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakaguchi et al (U. S. Patent Application Publication US 2002/0013405 A1).

Sakaguchi et al disclose a multilayer structure polymer comprising: innermost layer/intermediate layer/outmost layer (Example 6). The polymer compositions of innermost layer, intermediate layer and outmost encompasses claimed polymers of an innermost layer polymer (I-A), an intermediate layer polymer (I-B) and an outmost layer polymer (I-C) (Example 6). The glass transition temperature of the intermediate layer polymer is 79 °C, which falls within the claimed range (Example 6, Table 1).

6. Claims 1, 3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakaguchi et al (U. S. Patent Application Publication US 2002/0013405 A1).

Sakaguchi et al has been discussed above in paragraph 5 fail to disclose claimed gloss and heat distortion temperature. Sakaguchi et al disclose additives such as pigment, extender pigment etc can be added (Paragraph [0043]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of this invention made to optimize desired physical properties and gloss by varying polymer forming monomer composition and adding extender pigment to vary gloss. A person of ordinary skill in the paint art knows how to vary gloss.

7. Claims 20-22 stand rejected under 35 U.S.C. 102(b) as being anticipated by Koyama et al (U. S. Patent Application Publication US 2002/0136853 A1) for the

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reasons of record set forth in paragraph 5 of the Office Action mailed December 22, 2008 (Paper Number 20081217).

8. Receipt of Information Disclosure Statement filed June 22, 2009 is acknowledged and all recited documents have been made of record. Recited non-English documents have been considered to the extent of provided English abstract.

9. Applicant's arguments filed April 30, 2009 have been fully considered but they are not persuasive. Applicants' arguments relating to rejection of claims 1, 3, 5-7 and 20-22 under 35 U. S. C. 102(b) as being anticipated by Kishida et al is found to be convincing. Therefore that rejection is hereby withdrawn.

In reference to rejection of claims 20-22 under 35 U.S.C. 102(b) as being anticipated by Koyama et al (U. S. Patent Application Publication US 2002/0136853 A1), applicants essentially argue that Koyama et al disclose an acrylic resin laminate film comprising a soft layer having a flexural modulus of about 1,300 MPa or less, and a hard layer having a flexural modulus of about 1,800 MPa or more. Thus Koyama et al neither disclose nor suggests a claimed monolayered acrylic resin film material. Further applicants argue that Koyama et al do not disclose pencil hardness of soft layer. In their Examples, Koyama et al disclose several soft layers which have a flexural modulus of about 1,150 to 1,550 MPa. Applicants state that the soft layer having such a low flexural modulus must have a pencil hardness of 3B or lower because a hard layer having a flexural modulus of 1,650 MPa has a pencil hardness of 3B, as disclosed for

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Comparative Example 2. Koyama et al's hard layers in their Examples have a flexural modulus of 2,960 to 3,200 MPa and a pencil hardness of H or higher. However, since a hard layer having such a high modulus must be difficult to be elongated due to its high flexural modulus, the tensile test of the hard only under claimed conditions cannot be carried out.

These arguments are unpersuasive because Koyama et al forms plate shaped test pieces of soft layer and also of hard layer. Thus these plates shaped test pieces are monolayered acrylic resin film material. There is no evidence provided showing that Koyama et al's soft layers do not have a claimed pencil hardness of 2B. There is no factual evidence provided showing that the tensile test of the hard layer of Koyama et al cannot be carried out under the claimed conditions. Furthermore, Koyama et al's Comparative Example 2 meets claimed invention.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Nakarani whose telephone number is (571) 272-1512. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie E. Shosho can be reached on (571) 272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/D. S. Nakarani/
Primary Examiner, Art Unit 1794**

DSN
July 25, 2009.